

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IES UTILITIES INC.	DOCKET NOS. RFU-98-7 RFU-98-21 RFU-99-3 WRU-98-10-151
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ORDER GRANTING INTERVENTION AND REQUEST FOR RECONSIDERATION

(Issued June 2, 2000)

On March 3, 2000, the Utilities Board (Board) issued an order in these consolidated dockets requiring that IES Utilities Inc. (IES) file a plan to refund to its customers certain refunds IES has received from one of its interstate natural gas pipeline suppliers, Northern Natural Gas Company (Northern). Northern, in turn, received the refunds from natural gas producers who sold gas to Northern during 1983-1988 and collected a Kansas ad valorem tax on those sales. That tax is now in the process of being refunded by those producers for ultimate refund to the retail customers who overpaid while the tax was being collected.

On March 16, 2000, IES filed an application for rehearing of the Board's order, requesting that the Board continue the waiver of 199 IAC 19.10(8) already granted in this docket.

On April 14, 2000, the Board granted IES's application for rehearing and approved continuation of the waiver to permit IES to continue to retain the Kansas ad

valorem tax refunds in a special refund retention account until November 1, 2000, at which time the balance could be included in IES's PGA reconciliation.

On May 4, 2000, the Iowa Industrial Intervenors (III) filed a motion to intervene in these consolidated dockets and an application for rehearing and reconsideration. The gist of III's position is as follows: The members of III are presently transportation customers of IES and Northern who procure their own natural gas supplies. They were sales customers during the time period the Kansas ad valorem taxes were collected and therefore overpaid for their gas purchases in that time frame. Because they are not currently sales customers, they are concerned that they will not share in a refund of the overcollections if the refund is made through the PGA reconciliation. III is aware that it seeks to intervene in this proceeding at a late date, but points out that III had no reason to believe it had an interest in this matter that required separate representation until the PGA refund mechanism was proposed. III asks that the Board modify its order of April 14, 2000, to permit current transportation customers who are former sales customers to share in the refund.

On May 18, 2000, IES filed an objection to III's application for rehearing, arguing that it is IES's current practice to limit supplier refunds to existing sales service customers only.

The Board finds it appropriate to grant III's petition to intervene and to grant reconsideration for purposes of resolving the remaining issues in this matter. III asserts that current transportation customers who were sales customers during the

ad valorem tax collection period should be permitted to share in the refunds. As a preliminary finding, the Board agrees with the principle that the refund should be paid to the customers who overpaid in the first place, to the extent possible. However, IES has objected that making refunds to transportation customers would be inconsistent with IES's current practice and would require information that is no longer available. Specifically, IES states that usage data from 1988 and earlier is no longer available, making refund calculations based on that data impossible.

III has not yet responded to IES's arguments. The Board will allow the parties an opportunity to expand on their arguments before deciding whether transportation customers in this docket should be permitted to share in the refunds.

If the Board concludes that transportation customers should be permitted to share in the refunds, then there will still be a question regarding the manner of that sharing. It is possible that sales information from the 1983 to 1988 period may no longer be available on a reasonable basis and a surrogate method of allocating refunds, based on more recent data, may be required. III has not yet expressed an opinion regarding an appropriate sharing mechanism.

The Board will require that the parties file information and argument with the Board to permit resolution of these issues. Accordingly, IES will be directed to file a supplemental statement of its position regarding inclusion of transportation customers (that were sales customers in all or part of the 1983-1988 time period) in this refund. If IES continues to believe it is inappropriate to include such customers,

IES shall file argument in support of its position and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and III will be given an opportunity to respond. If IES agrees to include such customers, IES shall file a report showing the calculations it proposes and describing the results. Consumer Advocate and III will then have an opportunity to comment on the IES report; IES will have an opportunity to respond; and the Board will then either set the matter for hearing (if necessary to resolve fact issues), or issue an order directing the manner in which the refunds should be made.

IT IS THEREFORE ORDERED:

1. The application for intervention filed by Iowa Industrial Intervenors on May 4, 2000, is granted.
2. The application for reconsideration filed by Iowa Industrial Intervenors on May 4, 2000, is granted to the extent described in the body of this order.
3. The following procedural schedule is adopted:
 - a. IES shall file with the Board, on or before June 15, 2000, a supplemental statement of its position with respect to the inclusion of transportation customers in the refund to be made in these dockets.
 - b. If any other party disagrees with the statement filed by IES, then that party shall file a counter-statement on or before June 22, 2000.
 - c. If IES agrees to include in the refund transportation customers that were sales customers in all or part of the 1983 through 1988 period, IES

shall file with the Board, on or before June 23, 2000, a report showing, in detail, its proposed method for allocating a portion of the Kansas ad valorem tax refund to current transportation customers that were sales customers during the time associated with the refund of the ad valorem tax.

d. On or before July 14, 2000, Consumer Advocate and Iowa Industrial Intervenors may file comments on the IES report.

e. On or before July 28, 2000, IES may file responsive comments to the comments filed by the other parties.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 2nd day of June, 2000.